



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

September 24, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Crook County Commission
c/o Floyd Canfield, Chair
PO Box 37
Sundance, Wyoming 82729

Re: Notice of Safe Drinking Water Act
Enforcement Action against Flying J
Travel Plaza
PWS ID #WY5600102

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Flying J Travel Plaza located in Crook County, Wyoming. This Order requires that the public water System take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). The System is in violation of 40 C.F.R. §§ 141.23(d), 141.63(a)(2), 141.201, 141.31(b), and 141.21(g)(2) for: failure to monitor for nitrate; exceedance of the MCL for total coliform bacteria; failure to provide public notice of the nitrate violation; failure to report NPDWR violations to EPA within 48 hours; and failure to report a total coliform MCL violation to EPA by the end of the next business day after discovering the violation.



Printed on Recycled Paper

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Jackson Naftel at (303) 312-6362.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



Printed on Recycled Paper



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

September 24, 2003

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Phil Adams, President
Flying J Inc.
1104 Country Hills Drive
Ogden, UT 84403

Lee Goshart, Operator
Flying J Travel Plaza
PO Box 845
Rawlins, WY 82301

Re: Administrative Order
Docket No. **SDWA-08-2003-0065**
Flying J Travel Plaza
PWS ID #5600102

Dear Mr. Adams and Mr. Goshart:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq. and its implementing regulations. Among other things, the Administrative Order finds that Flying J Travel Plaza located in Rawlins, Wyoming is a public water supplier as defined by the SDWA and that you have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.23(d), 141.63(a)(2), 141.201, 141.31(b), and 141.21(g)(2) for: failure to monitor for nitrate; exceedance of the MCL for total coliform bacteria; failure to provide public notice of the nitrate violation; failure to report NPDWR violations to EPA within 48 hours; and failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of



Printed on Recycled Paper

violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Jackson Naftel at the address on the letterhead, with the mailcode 8ENF-W, or you may call Mr. Naftel at (303) 312-6362. If you wish to have an informal conference with EPA, you may also call or write Mr. Naftel. If you are represented by an attorney please feel free to have your attorney call Peggy Livingston at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



Printed on Recycled Paper

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

IN THE MATTER OF)
Flying J Incorporated)
Flying J Travel Plaza)
Brigham City, UT)
)
Lee Goshart, Operator)
Flying J Travel Plaza)
Rawlins, Wyoming)
)
Respondents)
) ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g)) Docket No. SDWA-08-2003-0065

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Flying J Incorporated (Respondent) is a corporation under the laws of the state of Utah as of December 8, 1986 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.



2. Respondents own and/or operate a system, Flying J Travel Plaza Water System (the "System"), located in Crook County, Wyoming for the provision to the public of piped water for human consumption.
3. The Flying J Travel Plaza Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and/or operate a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a June 22, 1998 sanitary survey by an agent for EPA, Respondents operate a system that is supplied solely by a ground water source consisting of four wells. The system serves approximately 893 persons daily, through two service connections.



FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor their water annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondents failed to monitor for nitrate in 2002, in violation of 40 C.F.R. § 141.23(d).

II.

1. 40 C.F.R. § 141.21 requires public water systems to monitor their water at least once per quarter to determine compliance with the maximum contaminant level ("MCL") for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondents for the public water system during September 1999 exceeded the MCL for total coliform bacteria, in violation of



40 C.F.R. § 141.63(a)(2).

III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the MCL, maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondents have not provided public notice of the noncompliance detailed in the preceding Section I, in violation of 40 C.F.R. § 141.201.

IV.

1. 40 C.F.R. § 141.31(b) requires that public water systems shall report any failure to comply with the National Primary Drinking Water Regulations to EPA within 48 hours.
2. Respondents failed to report to EPA within 48 hours the instances of noncompliance described in Findings of Violation Sections I and III, in violation of 40 C.F.R. § 141.31(b).

V.

1. 40 C.F.R. § 141.21(g)(1) requires a public water system that has exceeded the MCL for total coliform in 40 C.F.R. §



141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.

2. Respondents failed to report to EPA the instance of noncompliance detailed in Section II in violation of 40 C.F.R. § 141.21(g)(1).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of the effective date of this Order, and annually thereafter, Respondents shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. Upon the effective date of this Order, Respondents shall comply with the total coliform MCL requirements appearing at 40 C.F.R. § 141.63.
3. No later than thirty days from the effective date of this Order, Respondents must comply with the public notice requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and



141.205. Specifically, Respondents must provide public notice of the failure to monitor for nitrate violation in accordance with 40 C.F.R.

§ 141.204. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation.

Respondents shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

4. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.



5. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any failure to comply with coliform MCL requirements under 40 C.F.R. § 141.63 to EPA by the end of the next business day after the System discovers the violation.
6. Reporting requirements specified in this Order shall be provided by certified mail to:

Jackson Naftel
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order, instituted under Section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A), may subject Respondents to an administrative civil penalty of up to \$25,000 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$27,500 per day of violation, assessed by a



U.S. District Court, under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).

3. Violation of any requirement of the SDWA or its implementing regulations, instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondents to a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S. District Court, under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 24TH day of September, 2003.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Dianne L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 24, 2003.



Printed on Recycled Paper